

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|-------------------------------------|---|--------------------------|
| Christopher Toby Hayes, #99296-071, |) | |
| |) | C/A No. 9:19-1420-MBS |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | OPINION AND ORDER |
| Warden W. Vereen, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff Christopher Toby Hayes is an inmate in custody of the Federal Bureau of Prisons who currently is housed at Edgefield Federal Correctional Institution in Edgefield, South Carolina. Plaintiff, proceeding pro se and in forma pauperis, filed a complaint on May 15, 2019, alleging that his constitutional rights were violated in various respects. See Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 397 (1971). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling.

On August 5, 2019, the Magistrate Judge issued a proper form order directing Plaintiff to within twenty-one days (1) complete a financial certificate; (2) complete a summons form; and (3) complete, sign, and return Forms USM-285 for Defendant, the Attorney General of the United States, and the United States Attorney for the District of South Carolina. ECF No. 13. Plaintiff specifically was advised that failure to bring the case into proper form could result in the case being dismissed for failure to prosecute and failure to comply with an order of the court under Fed. R. Civ. P. 41(b).

On August 26, 2019, Plaintiff sought a thirty day extension of time to comply with the proper form order. ECF No. 15. The Magistrate Judge granted Plaintiff's motion on August 26, 2019. ECF

No. 16. Nevertheless, Plaintiff has failed to bring the matter into proper form.

On September 30, 2019, the Magistrate Judge filed a Report and Recommendation in which he recommended that the within action be dismissed without prejudice pursuant to Rule 41(b). Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The complaint is dismissed, without prejudice, pursuant to Rule 41(b).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

November 1, 2019